

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CASE NO.: 05 CV 7905

Judge Casey

*\*This document has been electronically filed with NYSD ECF.*

PRESIDION SOLUTIONS, INC.,

Plaintiff,

vs.

BRENTWOOD CAPITAL CORPORATION  
and CHARLES J. SPINELLI, individually,

Defendant.

/

**AFFIDAVIT OF BRIAN J. MCCARTHY**

**STATE OF FLORIDA  
COUNTY OF BROWARD**

BEFORE ME, the undersigned authority, personally appeared BRIAN J. MCCARTHY, known to me personally or identified to me by proper identification, who by me first duly sworn, and upon his oath, stated to me as follows:

1. I am over 18 years of age, *sui juris*, and competent to testify as to the matters herein.
2. This Affidavit and all statements herein are based on my personal knowledge.
3. I am an associate of the law firm of Berman, Kean & Riguera, P.A. ("BKR"), attorneys for the Plaintiff PRESIDION SOLUTIONS, Inc. ("Presidion"). I submit this affidavit in further support of BKR's motion to withdraw as counsel for Plaintiff.
4. Even though James E. Baiers, Chief Legal Officer to Presidion, has filed objections to BKR's motion to withdraw, the underlying grounds to BKR's motion still exist.

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Moreover, a conflict has arisen that precludes BKR's continual representation of Presidion, which conflict has been stated to BKR by both Mr. Baiers and Mr. Bernet of MVI, the original Plaintiff in this action.

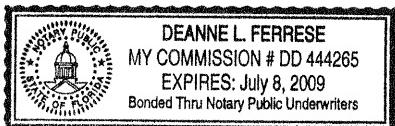
5. Because there is a conflict between Mirabilis and Presidion, BKR cannot now continue to represent either party in this matter and seeks withdrawal as counsel in the above captioned matter.
6. There will be no prejudice for Presidion as it is early on in the litigation process so there is not much for new counsel to catch up on in this action. Still pending is a motion to dismiss by Defendants and Defendants' counsel's motion to withdraw. Thus, this case has not progressed beyond the pleadings stage and there can be no prejudice to Presidion.

**FURTHER AFFIANT SAYETH NOT.**



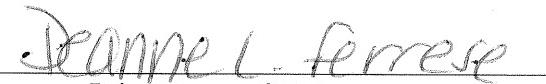
BRIAN J. MCCARTHY

SWORN AND SUBSCRIBED BEFORE ME, the undersigned authority, on this 11 day  
of April, 20 07.




Deanne L. Ferrese

Notary Public - State of Florida



Deanne L. Ferrese

Print Name of Notary

Seal:

Personally Known  or Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 11<sup>th</sup> day of April, 2007, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system and mailed, via U.S. Regular Mail, a copy to: **James Baiers**, Chief Legal Officer, Presidion Solutions, Inc., 755 W. Big Beaver Road, Suite 1700, Troy, MI 48084; **David M. Levy, Esq.**, Levy & Boonshoft, P.C., 477 Madison Avenue, New York, NY 10022.

**BERMAN, KEAN & RIGUERA, P.A.**

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By: s/ Richard E. Berman

Richard E. Berman  
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